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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICRON TECHNOLOGY INC.,)	CASE NO. CV 17-6932 MMC
)	
Plaintiff,)	CASE NO. CR 18-465 MMC
)	
v.)	CASE NO. CV 18-6643 NC
)	

UNITED MICROELECTRONICS
CORPORATION, FUJIAN JINHUA
INTEGRATED CIRCUIT CO., LTD., and
DOES 1-10,

Defendants.

**UNITED STATES' FILING OF A SECOND
NOTICE OF RELATED CASE; [PROPOSED]
ORDER**

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
UNITED MICROELECTONICS)
CORPORATION, INC.; FUJIAN JINHUA)
INTEGRATED CIRCUIT, CO., LTD.; CHEN)
ZHENGKUN, a.k.a. STEPHEN CHEN; HE)
JIANTING, a.k.a. J.T. HO; and WANG)
YUNGMING, a.k.a. KENNY WANG.)
)
Defendants.)

UNITED STATES' FILING OF A SECOND NOTICE OF RELATED CASE; [PROPOSED] ORDER
CR 17-6932 MMC; 18-465 MMC; 18-6643 NC

1 UNITED STATES OF AMERICA,)
 2 Plaintiff,)
 3 v.)
 4 UNITED MICROELECTRONICS)
 5 CORPORATION; FUJIAN JINHUA)
 6 INTEGRATED CIRCUIT, CO., LTD.; and)
 7 CHEN ZHENGKUN, a.k.a. STEPHEN CHEN.)
 Defendants.)

8 Pursuant to Local Criminal Rule 8-1, the United States submits this Notice of Related Case,
 9 giving notice that the civil case of *United States v. United Microelectronics Corp. et. al.*, Case No. CR
 10 18-6643, filed on November 1, 2018, and assigned initially to Hon. Nathanael M. Cousins (attached
 11 hereto as Exhibit 1), is related to the civil case case of *Micron Technology Inc. v. United*
 12 *Microelectronics Corp. et. al*, Case No. CR 17-6932, filed on December 5, 2017 and pending before the
 13 Hon. Maxine M. Chesney, as well as the criminal case of *United States v. United Microelectronics*
 14 *Corp., Inc. et. al.*, Case No. CR 18-465, filed on September 27, 2018 and also pending before Hon.
 15 Maxine M. Chesney.

16 The civil suit that Micron filed on December 5, 2017 alleges that United Microelectronics
 17 Corporation (“UMC”), Fujian Jinhua Integrated Circuit Co. Ltd. (“Fujian Jinhua”), and Does 1-10,
 18 violated the Defend Trade Secrets Act, the civil provisions of the Racketeer Influenced and Corrupt
 19 Organizations Act (RICO), and California’s Uniform Trade Secrets Act. The civil suit alleges that,
 20 since at least the fall of 2015, UMC and the founders of Fujian Jinhua developed and set in motion a
 21 plan for UMC to recruit key personnel from Micron’s Taiwan Subsidiary (Micron Memory Taiwan,
 22 “MMT”) to misappropriate electronic and paper files containing Micron trade secrets related to
 23 Dynamic Random Access Memory (DRAM) from MMT, and to deliver those trade secrets to UMC.
 24 The complaint alleged that UMC incorporated Micron’s trade secrets into technologies that it transferred
 25 to Fujian Jinhua to enable Fujian Jinhua to mass produce advanced DRAM products. The complaint
 26 alleges that the participants in the conspiracy went to great lengths to hide and cover up their plan,
 27 including by: “lying to human resources personnel when exiting Micron; lying to Taiwanese criminal

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 CR 17-6932 MMC; 18-465 MMC; 18-6643 NC

1 investigators; using software tools to wipe electronic evidence; and even attempting to destroy or hide
2 incriminating materials from Taiwanese criminal authorities while the authorities were in the middle of
3 executing a search warrant at UMC.” *See* Micron Complaint, Doc. 1. The civil complaint alleged that
4 Stephen Chen, J.T. Ho, Kenny Wang, and others, were co-conspirators and that each was an agent,
5 conspirator, and aider or abetter of UMC and/or Fujian Jinhua.

6 The criminal indictment filed on September 27, 2018 concerns one or more of the same
7 defendants and events as described in Micron’s civil suit. The named defendants in the criminal case are
8 UMC, Fujian Jinhua, Stephen Chen, J.T. Ho, and Kenny Wang. The Grand Jury returned a seven count
9 indictment charging the defendants with conspiracy to commit economic espionage, in violation of 18
10 U.S.C. § 1831(a)(5), and conspiracy to commit theft of trade secrets, in violation of 18 U.S.C. §
11 1832(a)(5). The indictment charges, with respect to Kenny Wang and J.T. Ho, substantive counts of
12 economic espionage and/or theft of trade secrets. Finally, the indictment charges all defendants with
13 receipt and possession of stolen trade secrets for the benefit of a foreign instrumentality, in violation of
14 18 U.S.C. § 1831(a)(3). The indictment concerns the same events as described in Micron’s civil
15 complaint: The theft of Micron’s trade secrets pertaining to the design and production of DRAM by
16 former MMT employees, who took those trade secrets to work at UMC, and who, in turn, provided
17 DRAM technology, based on stolen Micron technology, to Fujian Jinhua.

18 The civil case filed by the United States on November 1, 2018 also concerns one or more of the
19 same defendants and events as described in both Micron’s civil suit and the criminal indictment. The
20 named defendants in the United States’ civil suit are UMC, Fujian Jinhua, and Stephen Chen. The
21 action is brought pursuant to 18 U.S.C. § 1836, which provides authority for the Attorney General to
22 obtain appropriate injunctive relief against violations of, among other things, Economic Espionage (18
23 U.S.C. § 1831) and Theft of Trade Secrets (18 U.S.C. § 1832), the violations charged in the criminal
24 indictment. Based on the same facts as set forth in the criminal indictment, the United States, in its civil
25 action, seeks permanent injunctive relief to prevent UMC, Fujian Jinhua, and Stephen Chen from using
26 or conveying Micron’s trade secrets. In particular, the United States seeks an order prohibiting them
27 from:

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1 (1) exporting, reexporting, causing the export of, attempting to export to the United
2 States; selling or supplying, directly or indirectly to the United States; or causing the
3 import into the United States of any products containing DRAM manufactured by
4 Jinhua or UMC; or conducting any transaction that evades or avoids or has the
5 purpose of evading or avoiding that prohibition; or (2) transferring or in any way
6 conveying Trade Secrets 1-8 [the same trade secrets described in both the criminal
7 indictment and civil complaint] to any other individual or entity.

8 *See* CR 18-6643, Doc. 1.

9 The United States notes that all three “actions concern one or more of the same defendants and
10 the same alleged events, occurrences, transactions, or property” under Local Criminal Rule 8-1(b)(1),
11 and all three “actions appear likely to entail substantial duplication of labor if heard by different judges
12 or might create conflicts and unnecessary expenses if conducted before different Judges.” Crim. L.R. 8-
13 1(b)(1) and (b)(2). For example, currently pending before Judge Chesney in Micron’s civil action is
14 UMC’s motion to dismiss for lack of personal jurisdiction. The government anticipates that similar
15 jurisdictional and venue-related issues will be presented to the Court in connection with the criminal and
16 civil action brought by the United States. Having a single judge preside over legal issues such as
17 jurisdiction, venue, discovery matters that may arise, among others, will conserve judicial resources,
18 reduce the possibility of conflicting rulings on similar issues, and promote an efficient determination of
19 both actions.

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1 The United States requests that the three, above-captioned cases be related and that the civil
2 action of *United States v. United Microelectronics Corp. et. al*, CR 18-6643, be re-assigned to the Hon.
3 Maxine M. Chesney, who is presiding over the earlier-filed cases.

4
5 DATED: Novmeber 1, 2018

Respectfully submitted,

6 ALEX G. TSE
7 United States Attorney

8 *John H. Hemann*

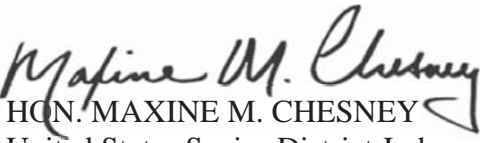
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[PROPOSED] ORDER

For the reasons stated in the Second Notice of Related Case and for good cause shown, the above-referenced cases shall be related by the Clerk, and the civil action of *United States v. United Microelectronics Corp. et. al*, CV 18-6643, shall be re-assigned to the undersigned.

IT IS SO ORDERED.

DATED: November 14, 2018


HON. MAXINE M. CHESNEY
United States Senior District Judge